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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/990,947  | 11/21/2001  | Shawni Daw           | 200135.404          | 2899             |
| 22504   | 7590        | 03/13/2006           | EXAMINER            |                  |
| DAVIS WRIGHT TREMAINE, LLP<br>2600 CENTURY SQUARE<br>1501 FOURTH AVENUE<br>SEATTLE, WA 98101-1688 |             |                      | CARTER, AARON W     |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2625                |                  |

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/990,947

Applicant(s)

DAW, SHAWN I

Examiner

Aaron W. Carter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-16, 18 and 19 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This action is responsive to papers filed on December 14, 2005.

#### ***Response to Amendment***

2. In response to applicant's amendment received on December 14, 2005, all requested changes to the claims have been entered.

#### ***Response to Arguments***

3. Applicant's arguments, see Remarks, pages 8-11, filed December 14, 2005, with respect to claims 1, 11 and 18 have been fully considered and are persuasive. The 35 USC 103(a) rejections of claims 1 and 11 have been withdrawn.

4. Applicant's arguments, see Remarks, filed December 14, 2005, with respect to the rejection(s) of claim(s) 3 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of USPN 6,901,277 to Kaufman et al.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1, 2 and 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the common characteristic" in lines 15-16. It is indefinite as to whether this limitation refers to the first or second common characteristic, or both.

Claim 4 recites the limitation "the cover overlay" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3-7 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN 6,901,277 to Kaufman et al. ("Kaufman").

As to claim 3, Kaufman discloses a user interface for the visual display of an image from an object under study comprising:

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A visual display terminal having thereon the image from the object under study (Fig. 9);

A color overlay on the image as presented on the visual display terminal indicating locations on the image that corresponds to tissues of interest (column 16, lines 11-20);

An indicator on the visual display terminal at a location spaced apart from the image indicating that the image has the color overlay thereon (Fig. 9, element 118 and column 16, lines 11-20, wherein the overlay color button corresponds to the indicator and when activated the button indicates that the image has the color overlay thereon).

As to claim 4, Kaufman discloses the user interface according to claim 3, wherein the cover overlay indicates similar regions of material within the object itself that have been identified by a computer analysis of the data collected about the object (column 16, lines 5-20, wherein the nodules or other selected tissues correspond to regions).

As to claim 5, Kaufman discloses the user interface according to claim 4, wherein the object is a medical body and similar regions correspond to tissues that have similar characteristics (column 4, lines 45-51).

As to claim 6, Kaufman discloses the user interface according to claim 5, wherein the tissue is a type of cancer (column 4, lines 45-51).

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As to claim 7, Kaufman discloses the user interface according to claim 3, wherein the indicator is at a selected location on the visual display terminal to attract the attention of a user (Fig. 9, element 118).

*Allowable Subject Matter*

7. Claims 11-16 and 18-19 are allowed.

The following is an examiner's statement of reasons for allowance:

8. As to claim 11, none of the prior art teach or fairly suggests the limitation "a marking associated with each of the images indicating those images which contain a region of interest that is similar to the tissue of interest, the marking being spaced from the tissue of interest within each respective image wherein the markings has a first form when the tissue of interest indicator is selectively turned on and a second form when the tissue of interest indicator is selectively turned off", in combination with the other limitations of the claim. The prior art of Kaufman, already of record, discloses a identifying a tissue of interest and a tissue of interest indicator (column 16, lines 5-20), but does not teach or fairly suggest the limitation described above.

9. As to claim 18, none of the prior art teach or fairly suggests the limitation "selecting the first or second tissue type and placing an analysis status indicator associated with each image that contains the selected tissue type", in combination with the other limitations of the claim.

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The prior art of Komiya, already of record, discloses identifying different tissue types in an image set, but does not teach or fairly suggest the limitation described above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

11. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is an examiner's statement of reasons for allowance:

As to claim 1, none of the prior art teach or fairly suggests the limitation of "the image analysis indicator showing the color scale variation corresponding to the different characteristics of the data", in combination with the other limitations of the claim. The prior art of Kaufman, already of record, discloses a color scale variation on the visual display and an image analysis indicator (column 16, lines 5-20), but does not teach or fairly suggest the limitation described above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

12. Claims 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### *Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN 6,466,687 to Uppaluri et al. discloses color overlay.

USPN 5,293,313 to Cecil et al. discloses color overlay.

USPN 5,410,250 to Brown discloses color overlay.

USPN 5,779,634 to Ema et al. discloses color overlay.

USPN 6,067,371 to Gouge et al. discloses color overlay.

US 2005/0251021 to Kaufman et al. discloses color overlay.

US 2003/0016850 to Kaufman et al. discloses color overlay.

US 2003/0174872 to Chalana et al. discloses color overlay.



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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron W. Carter whose telephone number is (571) 272-7445.

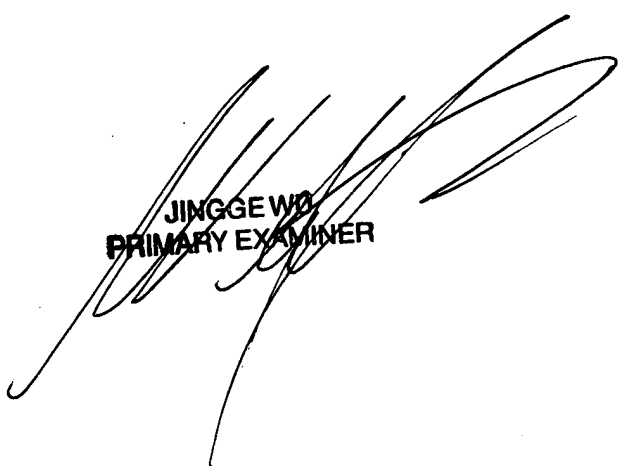
The examiner can normally be reached on 8am - 4:30 am (Mon. - Fri.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JINGGE WU  
PRIMARY EXAMINER